

JUDGE PRESKA

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

09 CIV

6629

MR, DARRELL BROOKS, /THE PLAINTIFF.

(In the space above enter the full name(s) of the plaintiff(s).)

COMPLAINT

-against-

LLOYD LAYMAN SHOPE, JAMES FRANKLIN KELLAM,
ENTERPRISE CAR RENTAL, FORD MOTOR COMPANY,
& FORD AIR BAG MANUFACTURER, /DEFENDANTS.

Jury Trial: ☒ Yes ☐ No
(check one)

DEMAND A JURY TRIAL

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

RECEIVED
SDNY PROSECUTOR
2009 JUN 29 P 4: 27

I. Parties in this complaint:

- A. List your name, address and telephone number. If you are presently in custody, include your identification number and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff Name MR, DARRELL BROOKS. 16183-171.
Street Address M.D.C. BROOKLYN, P.O. BOX, 329002,
County, City BROOKLYN N.Y.
State & Zip Code NEW YORK, 11232
Telephone Number _____

- B. List all defendants. You should state the full name of the defendant, even if that defendant is a government agency, an organization, a corporation, or an individual. Include the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

III. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

A. Where did the events giving rise to your claim(s) occur? MECKLENBURGE COUNTY, CHARLOTTE, NORTH CAROLINA.

B. What date and approximate time did the events giving rise to your claim(s) occur? JUNE 27, 2006, AT APPROXIMATELY 8:30am.

C. Facts: ON JUNE 27, 2006, I, THE PLAINTIFF DARRELL BROOKS, WAS IN A HEAD ON COLLISION & WAS STRUCK BY LLOYD LAYMAN SHOPE WHOM WAS DRIVING A 18-WHEELER FOR INTERNATIONAL EXPRESS TRUCKING COMPANY. SEE, AFFIDAVIT ATTACHMENTS.

What happened to you?

Who did what?

Was anyone else involved?

Who else saw what happened?

THE PLAINTIFF & TRUCK DRIVER LLOYD LAYMAN SHOPE ONLY.

YES, I, HAVE TWO INDIVIDUALS WHO WITNESS THE ACCIDENT
IAM CURRENTLY TRYING TO LOCATE THEM & GET THEIR TESTIMONY.

IV. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received. I, SUSTAINED THE FOLLOWING INJURIES: 1) FRACTURE MY RIGHT ANKLE, 2) RIGHT LEG (THIGH BONE) 3) FRACTURE THREE RIBS (RIGHT SIDE), 4) FRACTURE MY SHOULDERS (BOTH SIDES), 5) CRACK MY CHEST, 6) MY ABDOMEND CUT OPEN DUE TO INTERNAL BLEEDING FROM STEERING WHEEL IMPACT, 7) SUSTAINED INJURIES TO MY LEFT SHOULDER THAT HAS NOT BEEN ADEQUATELY TREATED TO DATE. 8) FRACTURE HIP, CAROLINA MEDICAL CENTER (C.M.C.) CHARLOTTE, NORTH CAROLINA.

Defendant No. 1 Name DR. JAMES FRANKLIN KELLAM M.D.
Street Address CAROLINA MEDICAL CENTER, MYERS PARK
County, City ORTHOPAEDICS/ P.O. BOX, 32861,
CHARLOTTE,
State & Zip Code NORTH CAROLINA, 28232
Telephone Number (704) 446-1340

Defendant No. 2 Name LLOYD LAYMAN SHOPE,
Street Address 1430#A WEST POINT DRIVE
County, City CHARLOTTE,
State & Zip Code NORTH CAROLINA, 28214
Telephone Number (704) 487-0994

Defendant No. 3 Name JOHN DOE#1 ENTERPRISE CAR RENTAL
Street Address 5751 WESTPARK DRIVE SUITE 200
County, City CHARLOTTE,
State & Zip Code NORTH CAROLINA, 28217
Telephone Number (704) 414-6276

Defendant No. 4 Name JOHN DOE#2/FORD MOTOR COMPANY & JOHN DOE#3
Street Address /AIR BAG MANUFACTURER,
P.O. BOX, 6248,
County, City DEARBORN
State & Zip Code MICHIGAN, 48126.
Telephone Number (800) 392-3673.

II. Basis for Jurisdiction:

Federal courts are courts of limited jurisdiction. Only two types of cases can be heard in federal court: cases involving a federal question and cases involving diversity of citizenship of the parties. Under 28 U.S.C. § 1331, a case involving the United States Constitution or federal laws or treaties is a federal question case. Under 28 U.S.C. § 1332, a case in which a citizen of one state sues a citizen of another state and the amount in damages is more than \$75,000 is a diversity of citizenship case.

A. What is the basis for federal court jurisdiction? (check all that apply)

☐ Federal Questions

☒ Diversity of Citizenship

B. If the basis for jurisdiction is Federal Question, what federal Constitutional, statutory or treaty right is at issue? _____

C. If the basis for jurisdiction is Diversity of Citizenship, what is the state of citizenship of each party?

Plaintiff(s) state(s) of citizenship BROOKLYN NEW, YORK.

Defendant(s) state(s) of citizenship 1) JAMES FRANKLIN KELLAM/NORTH CAROLINA,
2) LLOYD LAYMAN SHOPE/NORTH CAROLINA, 3) JOHN
DOE/ENTERPRISE RENTAL, 4) JOHN DOE/FORD MOTOR COMPANY & AIR
BAG MANUFACTURER/MICHIGAN.

V. Relief:

State what you want the Court to do for you and the amount of monetary compensation, if any, you are seeking, and the basis for such compensation. THE PLAINTIFF, REQUEST THAT THE COURT GRANT HIM \$1,000 ONE THOUSAND DOLLARS A DAY, IN PUNITIVE DAMAGES, AGAINST JAMES F. KELLAM, FOR HIS NEGLIGENCE, WHERE HE FAIL TO ADHERE TO MEDICAL ASSERTIONS VERIFIED BY SUPPORTING PHYSICIANS, THAT PROXIMATELY CAUSE THE PLAINTIFF TO SUFFER FROM EXISTING INJURIES TO HIS LEFT SHOULDER & HIP TO DATE.
REQUEST THE COURT TO GRANT THE PLAINTIFF, 200,000. TWO HUNDRED THOUSAND DOLLARS, IN PUNITIVE DAMAGES, AGAINST LLOYD LAYMAN SHOPE FOR HIS SPEEDING & RECKLESS DRIVING ON THE OPPOSITE SIDE OF THE LANE UNDER SUCH WEATHER CONDITIONS RESULTED IN PROXIMATE INJURIES SUFFERED IN COLLISION.
GRANT THE PLAINTIFF, 500,000. FIVE HUNDRED THOUSAND DOLLARS, IN PUNITIVE DAMAGES AGAINST ENTERPRISE FOR LEASING THE PLAINTIFF A DEFECTIVE VEHICLE WITHOUT PROPER SERVICE CARE THAT PROXIMATELY CONTRIBUTE TO THE CAUSE OF THE COLLISION.
(SEE ATTACHMENTS FOR CONTINUANCE OF RELIEF.)

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 24th day of JUNE, 2009.

Signature of Plaintiff

Darrell Book

Mailing Address

M.D.C. BROOKLYN

P.O. BOX, 329002

BROOKLYN N.Y. 11232

Telephone Number

Fax Number (if you have one)

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint. Prisoners must also provide their inmate numbers, present place of confinement, and address.

For Prisoners:

I declare under penalty of perjury that on this 24th day of JUNE, 2009 I am delivering this complaint to prison authorities to be mailed to the *Pro Se* Office of the United States District Court for the Southern District of New York.

Signature of Plaintiff:

Darrell Book

Inmate Number

16183-171

CONT, RELIEF ATTACHMENT:

- D) GRANT THE PLAINTIFF, 500,000. FIVE HUNDRED THOUSAND DOLLARS, IN PUNITIVE DAMAGES AGAINST FORD MOTOR COMPANY FOR DISTRIBUTIONS OF THE DEFECTIVE VEHICLE THAT PROIMATELY CONTRIBUTE TO THE CAUSE OF THE COLLISION.
- E) GRANT THE PLAINTIFF, 500,000. FIVE HUNDRED THOUSAND DOLLARS, IN PUNITIVE DAMAGES AGAINST FORD AIR BAG MANUFACTURER FOR INSALL-ING A DEFECTIVE AIR BAG THAT FAIL TO DEPLOY UPON IMPACT & PROXIMATELY CONTRIBUTE TO THE INJURIES SUSTAINED IN THE COLLISION
- F) THE PLAINTIFF, REQUEST TO BE GRANTED, COMPENSATORY DAMAGES IN THE SUM OF 10,000,000. TEN MILLION DOLLARS AGAINST LLOYD LAYMAN SHOPE, FOE THE PERSONAL INJURIES THE PLAINTIFF SUSTAINED FROM HIS NEGLIGENCE THAT PROXIMATELY RESULTED IN THE COLLISION
- G) REQUEST TO BE GRANTED, COMPENSATORY DAMAGES IN THE SUM 10,000,000. TEN MILLION DOLLARS AGAINST JAMES FRANKLIN KELLAM, FOR HIS NEGLIGENCE & FAILURE TO FOLLOW-UP ON REASONABLE CARE DICTATED BY PRIOR PHYSICIAN RESULTED IN THE PROXIMATE CAUSE OF THE EXISTING INJURIES TO THE PLAINTIFF LEFT SHOULDER.
- H) TO BE GRANTED, COMPENSATORY DAMAGES IN THE SUM OF 10,000,000. TEN MILLION DOLLARS AGAINST JOHN DOE/ENTERPRISE RENT-A-CAR FOR FAILURE TO PROVIDE THE PLAINTIFF WITH A EFFICIENT VEHICLE WITH APPROPRIATE TREAD IN THE TIRES & AIR BAG THAT WOULD DEPLOY UPON IMPACT. WHICH PROXIMATELY CONTRIBUTE TO THE EXTANT OF THE INJURIES SUSTAINED IN THE COLLISION.
- I) GRANTED, COMPENSATORY DAMAGES IN THE SUM OF 10,000,000. TEN MILLION DOLLARS AGAINST JOHN DOE/FORD MOTOR COMPANY, FOR THE DISTRIBUTION OF THE DEFECTIVE VEHICLE THAT PROXIMATELY CONTRIBUTE TO THE CAUSE OF THE COLLISION.
- J) REQUEST TO BE GRANTED, COMPENSATORY DAMAGES IN THE SUM OF 10,000,000. TEN MILLION DOLLARS AGAINST JOHN DOE/FORD AIR BAG MANUFACTURE FOR INSTALLING A DEFECTIVE AIR BAG THAT FAIL TO DEPLOY UPON IMPACT & PROXIMATELY CONTRIBUTE TO THE INJURIES SUSTAINED IN THE COLLISION.

I, DARRELL BROOKS, ATTEST TO THE FACT THAT THE ABOVE IS A TRUE & ACCURATE REPRESENTATION OF THE FACTS.

RESPECTFULLY,

DATE: JUNE 24, 2009.


DARRELL BROOKS

CC: D.B. B.B. E.B.

ATTACHMENT:

AFFIDAVIT PURSUANT TO THE PLAINTIFF, JUNE 27, 2006, ACCIDENT:

C ON 6/27/06, AT APPROXI: 8:30am, THE INCIDENT OCCURED, IN MECKLENBURG COUNTY, CHARLOTTE, NORTH CAROLINA, ON THE MORNING THE ACCIDENT OCCURED, THE PLAINTIFF WAS ON HIS WAY TO WORK, UNITED VAN LINE, A MOVING COMPANY, DRIVEN A VEHICLE HE RENTED FROM ENTERPRISE CAR RENTAL, (A FORD FOCUS), IT WAS RAINING EXTREMELY HARD.

1 AS THE PLAINTIFF, CAME AROND THE CURVE DRIVING UNDER THE SPEED LIMIT APPROXIMATELY 30mph, APPROACHING THE SECOND CURVE, HE SAW THE TRUCK COMING IN HIS DIRECTION, HE ATTEMPTED TO MANUEVER TO HIS RIGHT BUT, THE VEHICLE HAD VERY LITTLE TRACTION, ONCE HE SEEN THE TRUCK LIGHTS BUST THROUGH THE CLOUD OF RAIN APPRAOCHING TO HIS LEFT, HE RECALL GRIPPING THE STEERING WHEEL & BRACING HIS SELF FOR THE IMPACT.

2 THE IMPACT FROM THE COLLISION CAUSE THE VEHICLE TO SPIN ON THE RIGHT SIDE IN FRONT OF THE TRUCK BLOCKING THE ROAD, THE TRUCK CONTINUED TO COME IN MY DIRECTION & HIT THE VEHICLE ON THE RIGHT SIDE (PASSENGER SIDE) SPINNING THE VEHICLE COMPLETELY AROUND FACING THE DIRECTION THE TRUCK WAS APPROACHING,

3 THE VEHICLE WAS HIT ON THE REAR & WAS PUSHED INTO THE WOODS, AFTER THE COLLISION, THE PLAINTIFF HAD DIFFICULTE BREATHING & EVERY TIME HE INHALE OR EXHALED THE PAIN IN HIS CHEST WAS SO SEVERE ITS UNEXPLAINABLE, HE SAW NO ONE, HE ONLY FELT COLD DROPS OF RAIN LANDING ON HIM, HE COULD RECALL HIS HOLD BODY ACHING IN SO MUCH PAIN, COLD & SHACKING BEFORE HE LOST CONSCIOUSNESS, THE INJURIES SUSTAINED ARE THE FOLLOWING:

- A) PUNCTURED LUNG,
- B) FRACTURE RIGHT ANKLE,
- C) RIGHT LEG (THIGH BONE),
- D) FRACTURE THREE RIBS ((RIGHT SIDE),
- E) CRACK MY CHEST,
- F) FRACTURE SHOULDERS (BOTH SIDES),
- G) ABDOMEND CUT OPEN DUE TO INTERNAL BLEEDING FROM STEERING WHEEL IMPACT,
- H) SUSTAINED INJURIES TO MY LEFT SHOULDER THAT HAS NOT BEEN ADEQUATELY TREATED TO DATE.

D AT THE TIME OF THE INCIDENT, THE PLAINTIFF, WAS DRIVING A RENTAL CAR HE RENTED FROM ENTERPRISE, THE AIR BAG FAIL TO DEPLOY UPON IMPACT, THE FIRST AGENCY TO ARRIVE ON THE SCENE WAS CHARLOTTE FIRE DEPARTMENT, WHO PLACE THE SPLINT BOARD & CERVICAL COLLAR ON THE PLAINTIFF NECK.

E BASE ON THE E.M.S. REPORT, E.M.S. ARRIVE ON THE SCENE AT 9:21am & ARRIVED AT CAROLINA MEDICAL CENTER AT 9:58am, THE TRAUMA TEAM TOOK OVER & PREPARED THE PLAINTIFF FOR THE FOLLOWING SURGICAL REPAIR:

- 1) RIGHT SHOULDER REPAIR, ON 6/27/06,
- 2) ABDOMENAL REPAIR, TO STOP THE INTERNAL BLEEDING, 6/27/06,
- 3) FEMUR FRACTURE REPAIR, ROD IN THIGH, 6/28/06.
- 4) HIP & FRACTURE ANKLE REPAIR, 6/29/06,
- 5) PUNCTURED LUNG CONTUSION REPAIR, ON 6/27/06.

"MEDICAL NEGLIGENCE"

- F ON 7/6/06, THE PLAINTIFF WAS DISCHARGE FROM CAROLINA MEDICAL CENTER, C.M.C. TO HOME CARE ASSIGN TO MYERS PARK ORTHOPAEDIC & TREATED BY DR, JAMES FRANKLIN KELLAM, M.D. FROM JULY/06, TO MARCH/08, & WAS SEEN EVERY 3 TO 6 WEEKS.
- 1 ON 7/17/06, HIS INITIAL VISIT TO DR, JAMES FRANKLIN KELLAM, M.D. HE ORDER THAT A RADIOGRAPHICS (X-RAYS), BE CONDUCTED ON ALL THE INJURIES THE PLAINTIFF SUSTAINED ON HIS RIGHT SIDE, THE PLAINTIFF REQUESTED THAT DR, KELLAM, HAVE X-RAYS TAKEN OF HIS LEFT SHOULDER ALSO, BECAUSE THE PAIN WAS SHOOTING UP HIS NECK, INSTEAD HE WAS GIVEN A VERBAL JUSTIFICATION WITH-OUT EXAMINATION.
 - 2 ON 8/28/06, THE PLAINTIFF WENT BEFORE DR, KELLAM FOR ANOTHER PHYSICAL EXAMINATION, HE REQUESTED ONCE AGAIN THAT A X-RAY BE CONDUCTED OF HIS LEFT SHOULDER, INSTEAD, HE WAS GIVEN A REFILL OF PAIN MEDICINE & ANOTHER VERBAL JUSTIFICATION WITH-OUT EXAMINATION.
 - 3 ON 4/23/07, ONCE AGAIN THE PLAINTIFF COMPLAIN TO DR, KELLAM ABOUT THE SHARP PAINS IN HIS LEFT SHOULDER, & DR, KELLAM EXAMINE THE PLAINTIFF LEFT SHOULDER & STATED VERBATIM, (THEIR IS NO PROBLEM NOTICE, DO TO THE EXTENT OF MY INJURIES THE PAIN IS GOING TO SHIFT.) THE PLAINTIFF REQUESTED THAT HE HAVE X-RAYS TAKEN OF HIS LEFT SHOULDER, BEING THAT HE WAS HAVING X-RAYS TAKEN OF HIS HIP, THIGH, ANKLE, & HIS RIGHT SHOULDER, DR, KELLAM, DELIBERATELY DENIED THE REQUEST TO CHECK HIS LEFT SHOULDER.
 - 4 ON 5/14/07 & 5/24/07, THE PLAINTIFF COMPLAIN TO DR, KELLAM ABOUT THE EXTREME PAIN THAT HE WAS HAVING IN HIS LEFT SHOULDER, ONCE AGAIN HIS CRY FELL ON DEAF EARS.
 - 5 ON 6/25/07, THE CYCLE CONTINUED TO REPEAT ITSELF, THE PLAINTIFF REQUEST WAS DENIED OVER-LOOKED ONCE AGAIN.
 - 7 ON 8/13/07, THE PLAINTIFF WAS FEED-UP WITH THE FOOLISHNESS & DEMANDED THAT DR, KELLAM CONDUCT A THOROUGH EXAMINATION & HAVE RADIOGRAPHICS (X-RAYS), DONE OF HIS LEFT SHOULDER FOR CONFIRMATION.. WHEN THE X-RAYS CAME BACK THE PLAINTIFF CLAVICLE BONE WAS BROKEN.

G RATHER THEN DR, KELLAM ADDRESS THE PROBLEM, HE ALLEGE THE PLAINTIFF INJURIES MUST HAVE EMERGE FROM A PRIOR INCIDENT.

- 1 ON 1/31/08, BEING THAT DR, KELLAM WAS REFUSING TO ADHERE TO THE PLAINTIFF MEDICAL URGENCY & THE SEVERITY OF THE PAIN HE WAS HAVING IN HIS LEFT SHOULDER, HE WENT TO PRESBYTERIAN HOSPITAL EMERGENCY DEPARTMENT, & WAS REFERRED TO DR, STEPHEN F. BROCKMEIER M.D. SPORT & MEDICINE, A ADDITIONAL ORTHOPAEDIC SPECIALIST.**
- 2 ON 2/4/08, THE PLAINTIFF WENT TO DR, STEPHEN F. BROCKMEIER M.D. FOR FOLLOW-UP TREATMENT, & RETURN ON 2/8/08.**
- 3 ON 2/15/08, THE PLAINTIFF RETURN FOR FOLLOW-UP TREATMENT & DR, BROCKMEIER CONFORM THE INJURIES SUSTAINED TO HIS LEFT SHOULDER, IS GOING TO REQUIRE SHOULDER SURGERY.**
- 4 DR, BROCKMEIER, WANTED THE PLAINTIFF TO CO-PAY BEFORE HE WOULD PROFORM SURGERY ON HIS SHOULDER, BUT, EVERY SINCE THE ACCIDENT, HE WAS NOT EMPLOYED & WAS DEPENDING ON HIS FAMILY TO TAKE CARE OF HIM & AT THIS STAGE THEY WERE FINANCIALLY DEPLETED, SO HE FILE FOR MEDICAID & DISABILITY & WAS DENIED BOTH OF THEM. & HAS BEEN FORCE TO SUSTAIN HIS SELF ON PURE WILL TO DATE.**

H ON APPROXIMATELY 6/24/06, SOUTH BLVD, BRANCH ENTERPRISE RENT-A-CAR LEASE THE PLAINTIFF, A DEFECTIVE 2006, FORD FOCUS, 1FAFP34-N35W263624. VEHICLE THAT PROFORM BELOW THE REQUIRED EXPECTATIONS, THE VEHICLE BEEN REPETITIOUSLY RENTED OUT WITH A RECKLESS DISREGUARD FOR THE CUSTOMER SAFETY & FAIL TO PROPERLY SERVICE THE LEASE VEHICLE.

- 1 ON 6/27/06, THE VEHICLE FORD FOCUS LEASE TO THE PLAINTIFF FROM ENTERPRISE RENT-A-CAR, AIR BAG FAIL TO DEPLOY UPON IMPACT FROM THE HEAD ON COLLISION FROM THE 18-WHEELER DROVE BY LLOYD LAYMAN SHOPE, FOR INTERNATIONAL EXPRESS, 1FUYS4B7WP705543. & IS LIABLE IN THIS PERSONAL INJURY CLAIM AGAINST HIM.**

I, THE PLAINTIFF, DARRELL BROOKS, ATTEST TO THE FACT THAT THE ABOVE IS A TRUE & ACCURATE REPRESENTATION OF THE FACTS.

RESPECTFULLY,

DATE: JUNE 24, 2009.

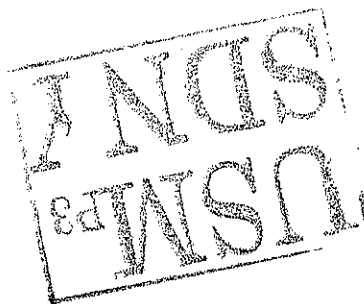

DARRELL BROOKS

CC: D.B. B.B. E.B.

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ATT: M. SANTIAGO
PRO SE OFFICE CLERK
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
U.S. COURTHOUSE, 500 PEARL STREET
NEW YORK, N.Y. 10007



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